

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANGEL RUIZ,

Plaintiff,

v.

JUNIOR FORTUNE, et al.,

Defendants.

Case No. 1:20-cv-01100-EPG (PC)

ORDER DENYING PLAINTIFF'S MOTION
FOR APPOINTMENT OF PRO BONO
COUNSEL, WITHOUT PREJUDICE

ORDER GRANTING PLAINTIFF THIRTY
DAYS TO RESPOND TO SCREENING
ORDER

(ECF No. 14)

Angel Ruiz ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this action.

On November 4, 2020, Plaintiff filed a letter. (ECF No. 14). In the letter, Plaintiff states that, due to the COVID-19 pandemic, he has not been able to successfully put together an amended response to the Court's screening order. Plaintiff asks for appointment of counsel because he currently has no help and lacks the legal knowledge to pursue this action.

Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), withdrawn in part on other grounds, 154 F.3d 952 (9th Cir. 1998), and the Court cannot require an attorney to represent Plaintiff pursuant to 28

1 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern District of Iowa,
2 490 U.S. 296, 298 (1989). However, in certain exceptional circumstances the Court may request
3 the voluntary assistance of counsel pursuant to section 1915(e)(1). Rand, 113 F.3d at 1525.

4 Without a reasonable method of securing and compensating counsel, the Court will seek
5 volunteer counsel only in the most serious and exceptional cases. In determining whether
6 “exceptional circumstances exist, a district court must evaluate both the likelihood of success of
7 the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of the
8 complexity of the legal issues involved.” Id. (citation and internal quotation marks omitted).

9 The Court will not order appointment of pro bono counsel at this time. The Court has
10 reviewed the record in this case, and at this time the Court is unable to make a determination that
11 Plaintiff is likely to succeed on the merits of his claims. In fact, the Court has found that
12 Plaintiff’s complaint fails to state any cognizable claims. (ECF No. 13). Moreover, it appears
13 that Plaintiff can adequately articulate his claims.

14 Plaintiff is advised that he is not precluded from renewing his motion for appointment of
15 pro bono counsel at a later stage of the proceedings.

16 For the foregoing reasons, IT IS ORDERED that Plaintiff’s motion for appointment of pro
17 bono counsel is DENIED without prejudice. However, the Court finds good cause to grant
18 Plaintiff an extension of time to respond to the screening order. Accordingly, IT IS FURTHER
19 ORDERED that Plaintiff has thirty days from the date of service of this order to respond to the
20 screening order.¹

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22 IT IS SO ORDERED.

23 Dated: November 6, 2020

/s/ Eric P. Shoup
24 UNITED STATES MAGISTRATE JUDGE

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27 ¹ If Plaintiff chooses to amend his complaint, he may plead compliance with California’s Government
28 Claims Act and should attach his Government Claim Form to his amended complaint. He should also attach the
response he received, if any.